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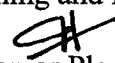
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Public Hearing Date:	May 19, 2009
Land Use Action Date:	June 16, 2009
Board of Aldermen Action Date:	July 13, 2009
90-Day Expiration Date:	August 17, 2009

DATE: May 15, 2009

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner 
Benjamin Solomon-Schwartz, Senior Planner

SUBJECT: CONGREGATION SHAAREI TEFILLAH, INC. petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to EXPAND A NONCONFORMING USE to add approximately 8,000 square feet to an existing Orthodox Synagogue to increase the number to a total of 405 seats and to waive the required number of parking stalls; locate a parking stall in the front setback; and to waive landscaping and lighting requirements for parking facilities for five or more stalls at 29-31 and 35 MORSELAND AVENUE, Ward 2, NEWTON CENTRE on land known as Sec 13, Blk 30, Lots 11A and 11b, containing a combined total of 31,300 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(a)(2)b), 30-21(b), 30-19(h)(1), 30-19(i), (j), and (m) of the City of Newton Rev Zoning Ord, 2007, and special permit #47-87, condition nos. 3 and 5.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY



Congregation Shaarei Tefillah proposes to construct an addition of approximately 8,000 sq. ft. to its existing synagogue building on Morseland Avenue. The petitioner, an Orthodox Jewish synagogue that has operated at this site since 1987, proposes to construct this addition in order to meet the present needs of the congregation. Because the congregation is a protected organization under the state “Dover Amendment,” no local zoning ordinance can regulate the use of land or structure for religious purposes other than reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. The proposed site plan contains far fewer parking spaces than would be required by the Newton Zoning Ordinance, requiring review through the special permit process. The 2007 *Newton Comprehensive Plan* notes the religious and social value of houses of worship and their potential to be stable anchors for community structure and land use. A significant investment by a synagogue in the neighborhood can strengthen an amenity serving many local residents. However, despite the benefits of this project, the Planning Department is concerned about impacts on immediate neighbors and recommends appropriate design and operational conditions to minimize and mitigate these impacts and maximize benefits to the community.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider if the following findings apply:

- ◆ The increased construction within the front setback, the increase in floor area ratio (FAR), and the reduction in usable open space will not be more detrimental than the impacts of uses of the existing building.
- ◆ Literal compliance with the parking ordinance is impracticable due to the nature of the use or the location, size, width, depth, shape, or grade of the lot.
- ◆ Parking waivers are in the public interest or in the interest of safety or protection of certain environmental features of the site plan.
- ◆ A waiver of 137 parking spaces that allows the plans to include only ten spaces will not have an adverse impact on the surrounding residential neighborhood.
- ◆ The proposed waiver to allow reduced lighting levels and reduced landscaping in the parking lot will no adversely impact pedestrian or vehicular visibility and safety within the parking facility.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on Morseland Avenue in Newton Centre, one block north of Commonwealth Avenue. It is located within a district zoned Single Residence 2 (*SEE ATTACHMENTS "A" AND "B"*), and the neighborhood is characterized by single-family detached residences. Eighty percent of the buildings within a 300-foot radius of the synagogue were built between 1890 and 1938, and most of the lots are between 6,000 and 14,000 sq. ft. The buildings represent a variety of early twentieth century architectural styles. Eighty percent of the lots in the vicinity have floor area ratios between 0.17 and 0.38.

B. Site

The 31,271 sq. ft. site consists of two relatively flat lots that the petitioner plans to merge. The southern lot contains an existing synagogue building. A single-family house on the northern lot was demolished in preparation for the proposed construction.



Existing synagogue building from Morseland



View across empty lot towards existing building

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The operation of a small synagogue began in the basement of the existing house in 1970. In 1987, the current petitioner acquired the building, and received site plan approval from the Board of Alderman to construct a rear addition that housed a sanctuary. The petitioner has operated the synagogue on this location since that time.

The petitioner plans to expand the building currently used as an Orthodox synagogue. The northern portion of the lot contained a single-family residence until the petitioner demolished it to prepare for this proposal. The petitioner plans to convert that lot to a religious use, expanding sanctuary seating and providing additional function space for communal meals and other gatherings. The new building will provide 405 seats in the sanctuary, expanding the capacity from the 300 seats currently provide. ***NOTE: The 1987 Board Order limited seating in the synagogue to 166 seats; presently, there are 300 seats, which fails to comply with***

the prior Board Order.

B. Building and Site Design

The existing building on the site is a ranch-style house that was converted into a synagogue. The petitioner proposes a significant addition adjacent to the existing building on the now-vacant lot to its north. The new space will include an expanded sanctuary and a new kitchen, as well as a number of service and accessory spaces. This addition will allow the petitioner to convert to the exciting sanctuary in a multi-purpose space that will primarily be used for the light meal and the socializing that follow Saturday morning services.

The proposed building occupies 40.4% of the lot area. Much of the area of the lot not occupied by buildings is to be paved in order to provide parking and circulation space. The petitioner is required to install an on-site underground infiltration system in order to absorb all run-off on-site. ***Planning Department staff recommends the petitioner consider using permeable concrete pavers for a portion of the driveway in order to infiltrate water directly rather than relying solely on an infiltration basin.*** In addition, because of the minimal amount of landscaping on site, the quality of the design and the planting will be of paramount importance.

Although the height of the building does not exceed that of the neighboring buildings and falls below the zoning cap of 36 feet, the proposed floor area ratio (FAR) is .53, where as .33 is allowed and exceeds the neighborhood average of .27. While it may be reasonable for an institution to have a higher FAR than its residential neighbors, this heightens the importance of the interfaces of the proposed building with the streetscape and the abutting properties.

In order to house the new sanctuary space, the addition primarily consists of a rectilinear box-like volume with detailing along the front and side facades. The upper portion of the front façade includes a mansard-like wall structure, which is intended to provide an element of residential



character to this institutional building and relates to the mansard roof on the adjacent Second Empire house, built in 1886 for the Morse family (the namesake of the street). ***In addition, the Planning Department recommends additional detailing along the rear façade to minimize the experience of the scale of the***

blank façade. **NOTE:** The current proposal has been revised based on recommendations of the City's Urban Design Commission. (*ATTACHMENT "C"*.)

C. Parking and Circulation

The existing parking lot includes nine (9) parking spaces. The petitioner proposes to add one space for a total ten (10) spaces. Except for one handicapped space located alongside the ramp at the front of the building, all of the spaces are located along the rear lot line.

The proposal for nine parking spaces is far below the 193 spaces required by the City's Zoning Ordinance. The petitioner argues that this is an Orthodox Jewish synagogue where the vast majority of congregants walk to events on the Sabbath and other major holidays. (The Jewish Sabbath occurs from sundown on Friday through sundown on Saturday and is considered a day of rest. Orthodox Jewish practice forbids the operation of motor vehicles, leading congregants to walking to synagogue and to other destinations on the Sabbath. The same prohibitions on driving apply to approximately thirteen other holidays in the yearly calendar.)

The petitioner has provided an analysis of attendance at regularly scheduled events and the parking impacts of each event (*SEE ATTACHMENT "D"*). The description suggests that parking demand will seldom be high, although the petitioner acknowledges that there are recurring events where congregants and guests may drive to the synagogue. Other than bar and bat mitzvah celebrations, the analysis delineates an average of nine evenings a year where fifty or more people are expected to attend an event where driving is religiously permissible.

In addition, the petitioner documents an annual average of 12 bar and bat mitzvahs over the last five years. While most of those families did not hold non-Sabbath celebrations, it is possible that the number of non-Sabbath events will increase when more suitable space is available. Even if all of the children eligible for a bar or bat mitzvah have a large non-Sabbath event, contrary to the synagogue's expectations, it is unlikely that the number of events would exceed this historical average. Twelve celebrations a year is still a modest number compared to the frequent use of the site on the Sabbath.

*The synagogue is willing to limit the rental of the facility to member families to avoid additional impacts. **The Planning Department strongly supports this condition.***

The synagogue plans to continue its current practice of strongly encouraging members to walk on these non-Sabbath occasions. Nonetheless, the Planning Department remains concerned about the parking impacts on those occasions where participants may drive, such as holidays like Purim, non-Sabbath bar or bat mitzvah celebrations, or other special events.

While participants may legally park on one side of Morseland Avenue and on neighboring streets, intense usage of parking at these times is likely to cause friction

with many neighbors. Indeed, neighbors have expressed concerns about parking impacts at recent neighborhood meetings. The petitioner plans to continue engaging a traffic safety officer during such events. However, the petitioner has not yet found a workable arrangement for members to park at another location, such as the Boston College Newton Centre (Law School) Campus. ***In addition to engaging a police detail, the petitioner should consider other parking arrangements for large events during times when participants are likely to drive. Alternatives could include a shuttle bus to a nearby parking facility or valet parking in front of the synagogue that could disperse parking through a broader area than individuals would otherwise use.***

Finally, the Planning Department is concerned that the impacts may increase in the future if the institution and its members adopt religious practices in the future that do not preclude driving on the Sabbath. Although this scenario may be unlikely, further restrictions and/or alternative parking will be necessary if it occurs.

Currently, all vehicles entering the lot must enter and exit through the same driveway. The proposed plans include a one-way loop around the synagogue, which will minimize the need for vehicles to back up and facilitate smooth flow of traffic for parking, drop-off and pick-up. Together with a new loading dock provided at the rear of the facility, this arrangement also should minimize the noise resulting from trucks backing up and should increase safety along Morseland Avenue by ensuring that no vehicles are backing up onto the street.

D. Landscape Screening, Lighting, and Signage

The petitioner intends to provide additional information on landscaping plans at the Public Hearing. The proposed site plan shows two landscaped areas adjacent to the front entrance, as well as a landscaped buffer along the rear lot line. As described above, high quality landscaping is critical to managing the interface between this institutional use and its residential neighbors. The petitioner should consider significant plantings such as on-site large caliper trees or street trees.



The petitioner indicated its plan to install exterior lighting that is residential in scale. The City's Zoning Ordinance requires parking lots with more than five

spaces to be illuminated to a level of at least one foot-candle, which is generally brighter than typical residential lighting. Given the context and the size of the lot, a waiver to allow residential scale lighting is appropriate. The Planning Department recommends downward-facing lighting fixtures that comply with the City light ordinance. The petitioner must provide additional information about the lighting planned to show compliance with these criteria.

No signage has been proposed as part of the project. The petitioner should indicate whether it intends to display the name of the synagogue prominently on the building and/or whether it plans to maintain the existing freestanding informational sign in front of the current building.



Existing signage adjacent to front entrance

E. Public Outreach

In addition to a series of neighborhood meetings held in 2007 and 2008 to discuss evolving plans, the synagogue held two neighborhood meetings in 2009 as part of the current special permit process. As a result of these meetings, the synagogue convened a working group with several interested neighbors to discuss potential physical changes and operational procedures to reduce potential negative impacts on abutters. The Board may wish to include these conditions in a special permit Board Order (*SEE ATTACHMENT "E"*).

The synagogue is willing to establish a liaison committee with neighbors and City representatives. The committee would be active during the construction and, once constructed, operation of the facility. ***The Planning Department strongly supports a condition requiring the establishment of such a committee.***

F. Synagogue Operations

There are a number of potential impacts of an institutional use in a residential setting. In addition to the discussion of parking and traffic above, operational restrictions relating to hours of operation, noise, educational facilities, and garbage disposal will help facilitate the smooth continued operation of this synagogue in its residential context. The details of the conditions that the petitioner is willing to accept can be found in an attachment to this report (*SEE ATTACHMENT "E"*).

As mentioned above, the synagogue has agreed to a condition that limits the synagogue to renting its space for social events only to synagogue members, reducing possible impacts on the neighborhood. The synagogue has no plans to operate a school on the site and agrees to a restriction to that effect. The synagogue also has agreed to a condition that no tents will be erected for social events.

Because the congregation had erected tents in the past because of inadequate indoor space, this condition will reduce one of the impacts on abutting properties.

The synagogue has agreed to restrict the hours for parties and social events, ending at 11:00 p.m. Monday through Thursday and midnight on weekends. ***The Planning Department recommends that parties and social events end by 11:00 p.m. on weekends as well as weekdays.***

Because of the fears about noise from the inside of the synagogue permeating the neighborhood, some neighbors requested that all new windows be inoperable. However, operable windows allow the petitioner to use natural heating and cooling to maintain a comfortable indoor environment, reducing energy use and contributing to environmental efficiency. Operable windows also allow the building to function more like a residential structure, which is one way of relating to the surrounding residential neighborhood. The petitioner argues that noise impacts should be minimal because amplification and live music are not used on the Sabbath and holidays. ***The Planning Department does not support a Board Order condition restricting the use of operable windows and instead suggests a condition that operable windows be closed in any rooms where amplified music is produced.***

Just as the congregation currently uses a dumpster for trash disposal, the proposed plans include a dumpster located on-site and screened from all sides. The synagogue is willing to agree to a condition to empty the dumpster frequently enough so that it does not overflow. It has also agreed to a condition not to empty the dumpsters between 5:00 p.m. and 7:00 a.m. ***The Planning Department supports this condition with an additional clause specifying that the dumpsters not be emptied at any time on Saturdays or Sundays.***

G. Construction Management

The construction of a new facility will cause temporary but significant impacts on the immediate neighbors. The petitioner expects to create a construction management plan that will limit the hours of construction, mandate hazard controls, and establish clear communication channels. ***The Planning Department supports a condition requiring a construction management plan and recommends the petitioner provide a draft plan before the Working Session.***

IV. CITY'S COMPREHENSIVE PLAN

The 2007 *Newton Comprehensive Plan* notes the religious and social value of houses of worship and their potential to be stable anchors for community structure and land use. Allowing the synagogue to adapt to its current needs in its current location facilitates the social and religious value of the institution and the stability of the City. The *Newton Comprehensive Plan* also emphasizes the importance of maintaining the character of existing residential neighborhoods. Over the past thirty years, many people have chosen to locate in the vicinity of the synagogue in order to be able to walk to this synagogue or

to Congregation Beth El on the Sabbath and on holidays. The synagogue expansion will serve those drawn to the neighborhood because of these religious amenities even while it alters the physical character of Morseland Avenue.

V. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated April 8, 2009 (*SEE ATTACHMENT "F"*), provides an analysis of the proposal with regard to Section 30-15 Table 3. A special permit is required for the expansion of a nonconforming structure by building an addition to the existing synagogue building.
- B. Parking Requirements (Section 30-19). The Zoning Review Memorandum provides an analysis of the proposal with regard to Section 30-19. A special permit is required to waive the requirement to provide 193 parking stalls, and to reduce the amount of landscaping and lighting associated with the parking facility. Although the Zoning Review Memorandum noted that a special permit would be required in order to allow a parking stall within the front setback, the existing stall was allowed by the Board Order #47-87, and no additional relief is needed.
- C. Other Reviews
 1. Urban Design Commission. The Commission reviewed this project and provided suggestions as to ways to manage the interface between the proposed synagogue building and the neighborhood, as well as between existing building and the planned addition including simplifying the roof structure, adding texture or detailing to the north and west facades, and softening the Morseland Avenue façade through additional landscaping (*SEE ATTACHMENT "G"*). The synagogue has integrated several of the suggestions of the Commission in revised plans submitted on May 11 (*SEE ATTACHMENT "C"*).
 2. Engineering. The Associate City Engineer reviewed the plans (*SEE ATTACHMENT "H"*) and notes a number of issues that will need to be addressed prior to the Working Session to address concerns relating to drainage, water supply and sewerage.
 3. Fire Department. Assistant Chief of Operations Proia has not yet reviewed the plans. The petitioner is expected to meet with Assistant Chief Proia so he can provide feedback prior to Working Session.

VI. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, dated April 8, 2009 (*SEE ATTACHMENT "F"*), the petitioner is seeking approval through or relief from:

- Section 30-21(a)(2)(b) and 30-21(b), for expansion of a nonconforming structure with respect to front setback, FAR, and minimum open space
- Section 30-19(m) for the following waivers from the parking requirements:
 - Section 30-19(d), for a waiver of 137 parking spaces
 - Section 30-19(i) and (j), to waive landscaping and lighting requirements for a parking facility with five or more stalls
- To amend existing Board Order #47-87 to allow for a synagogue with 405 seats (condition #3) and to exceed maximum percentage lot coverage (condition #5)

In order to exceed maximum lot coverage, the petitioner also will need to seek a variance or Dover waiver from Section 30-15, Table 2.

VII. SUMMARY OF PETITIONER'S RESPONSIBILITIES

Before the Working Session, the petitioner is expected to provide the following additional items:

- Landscaping plan
- Details for the proposed infiltration basin as well responses to other questions from the Engineering Department
- Approval from the Fire Department for required access to the facility
- Description of plans for exterior lighting
- Details on signage planned for the front façade and yard
- Responses to suggestions for additions or changes to the operational restrictions already proposed by the petitioner

ATTACHMENTS

ATTACHMENT A: *ZONING MAP*

ATTACHMENT B: *LAND USE MAP*

ATTACHMENT C: *LETTER AND REVISED PLANS IN RESPONSE TO URBAN DESIGN COMMISSION REVIEW, DATED MAY 11, 2009*

ATTACHMENT D: *NARRATIVE AND ANALYSIS OF EVENT ATTENDANCE*

ATTACHMENT E: *NOTES AND PROPOSED CONDITIONS FROM NEIGHBORHOOD WORKING MEETING, DATED MAY 8, 2009*

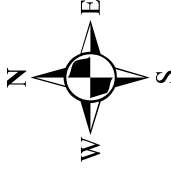
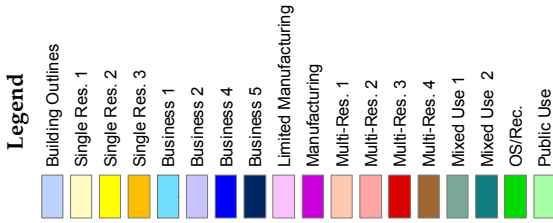
ATTACHMENT F: *ZONING REVIEW MEMORANDUM, DATED APRIL 8, 2009*

ATTACHMENT G: *ENGINEERING REVIEW MEMORANDUM, DATED MAY 4, 2009*

ATTACHMENT H: *NOTES FROM URBAN DESIGN COMMISSION, DATED APRIL 22, 2009*

Zoning Map

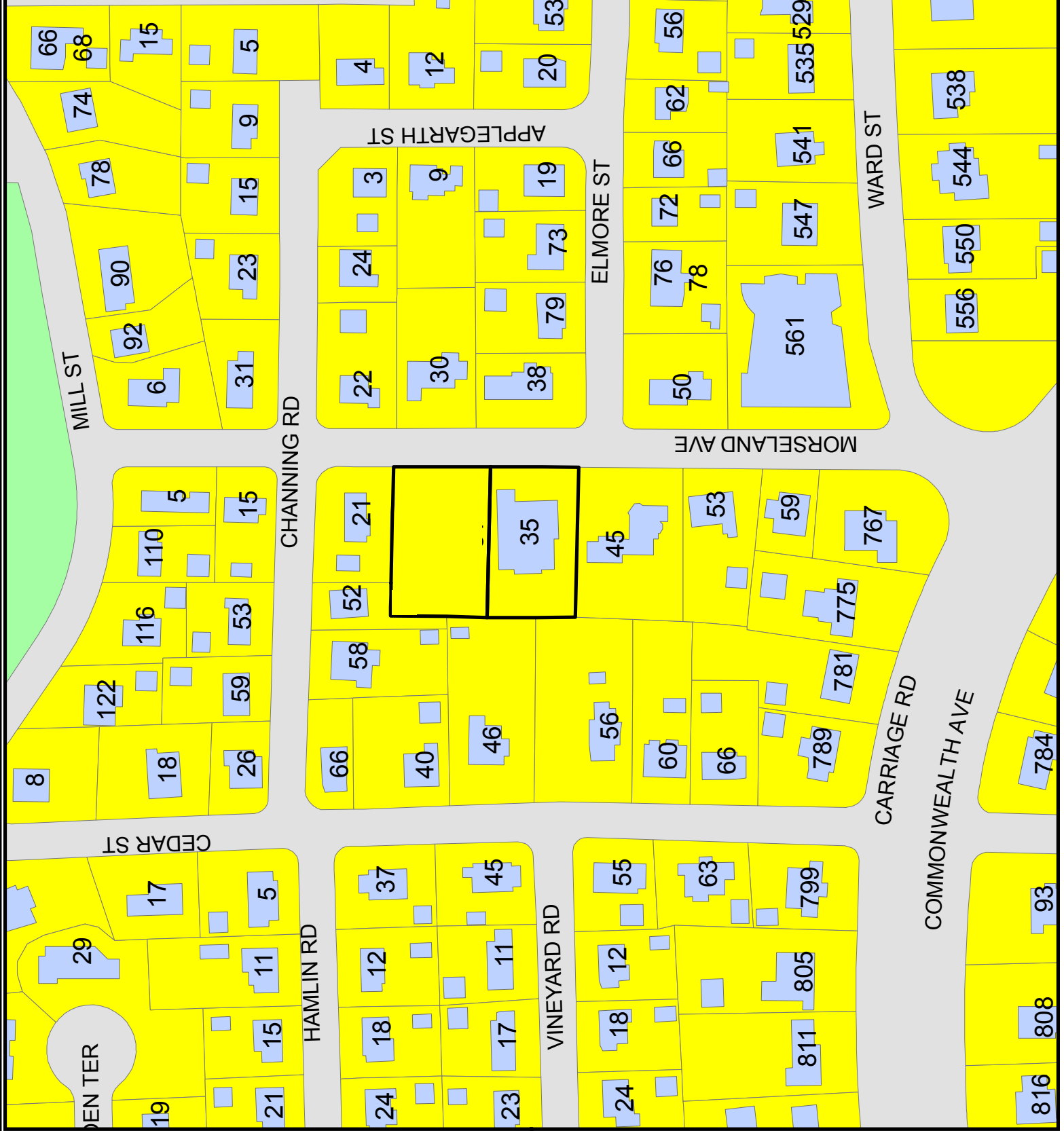
***City of Newton,
Massachusetts***



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









MAP DATE: May 07, 2009

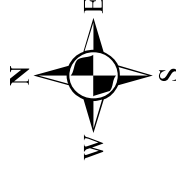


Land Use Map

City of Newton,
Massachusetts

Legend

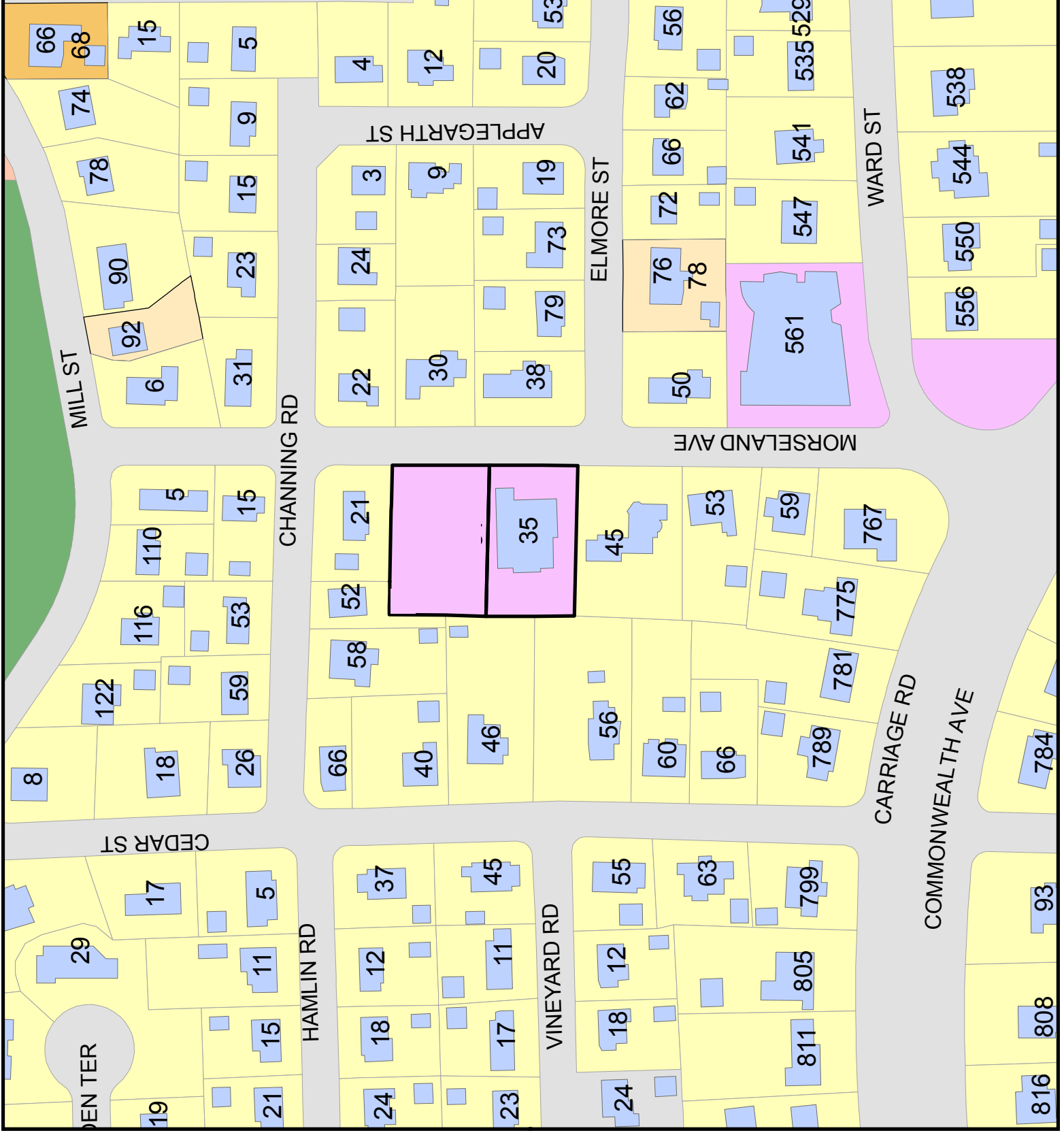
-  Building Outlines
-  Single Family Residential
-  Two Family Residential
-  Condominiums
-  Other Residential
-  Commercial
-  Industrial
-  Mixed Use
-  Vacant Land
-  Golf Course
-  Open Space
-  Private Educational
-  Nonprofit Organizations
-  Public Housing
-  Tax Exempt
-  Unspecified



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MAP DATE: May 07, 2009





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May 11, 2009

BY EMAIL AND FIRST CLASS MAIL

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Re: Congregation Shaarei Tefillah

Dear Ben:

The members of my client's building committee wish to express their thanks to the City's Urban Design Committee for their time and thoughtful comments in reviewing the congregation's proposed addition to its synagogue on Morseland Avenue. As we have discussed, Roni Pick, who attended the Urban Design Committee meeting as a representative of the building committee discussed comments generated at that meeting with the building committee and the project architect. As a result, the committee and architect have made several modifications to the building's design which are reflected on the attached renderings.

With regard to the east facade, the Urban Design Committee commented that there were too many competing roof shapes and that the entrance seemed less prominent than it should be. They felt the return of the mansard to the north and south should be reconsidered and consideration should be given to the materials for the upper panels over the ark as well as changing the roof form over the Rabbi's office. After considering a number of possible modifications, the committee agreed to utilize the straight mansard without the return on the north and south sides. They felt that the straightening the mansard without a return addressed three of the comments of the Urban Design Committee in that it eliminated one roof shape, thereby lessening the "competition of

May 11, 2009
Page 2

shapes" and that eliminating the return of the mansard created a greater emphasis to the arch over the entryway.

With regard to the materials selected for the front of the building over the ark, the upper panels have now been designed to incorporate translucent glass with a light slot as depicted on the enclosed renderings. Translucent windows will add beauty to the outside of the building and provide a sense of light inside the sanctuary.

The Urban Design Committee asked the building committee to look at ways to soften the look of the west side of the building. Some consideration was given to adding a trellis at the rear stair; however, there was concern that it would become a climbing structure for children. Consideration will be given to selecting a vine/landscaping solution to the issue of softening the west side of the building.

The Urban Design Committee also suggested lowering the wall at the entry stair. The enclosed revised rendering illustrates a design which focuses on softening and improving the look of the entryway and the building committee approved this change.

Ben, thank you for your assistance in this process. On behalf of the building committee, I would appreciate your forwarding our thanks to the Urban Design Committee for their thoughtful contributions.

With best regards.

Sincerely,



Diane C. Tillotson

DCT/mac
enclosures



MORSELAND AVENUE ELEVATION
05/11/09



NORTH EAST RENDERING
5/11/09



NORTH WEST RENDERING
5/11/09



SOUTH EAST RENDERING
5/11/09

Introduction

Congregation Shaarei Tefillah submits this application for special permit to the Board of Aldermen of the City of Newton as the special permit granting authority in order to construct an approximately 8,000 square foot addition to its existing synagogue located at 35 Morseland Avenue, Newton. The proposed addition will house the congregation's new sanctuary that will include seating for approximately 400 persons, a new kitchen area to the rear and a new and reconfigured lobby and entryway, storage areas and rest rooms. The existing sanctuary space will be converted to a Kiddush (collation) room and the existing Kiddush room (presently located in the basement of the 35 Morseland Avenue structure) will be converted to accommodate youth and religious education activities and to enlarge the existing Hashkama Minyan space.

Because Congregation Shaarei Tefillah is a religious institution protected by both M.G.L. c. 40A, §3 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §2000 et. seq., the applicant believes that it is unlawful for the City to require the synagogue to apply for a special permit.¹ However, the congregation acknowledges that institutional uses provide both benefits and challenges to the residential neighborhoods in which they are located and is willing to participate in a process that will ultimately result in a better project and a better understanding of the congregation's needs through dialogue with the Planning Department, the Land Use Committee of the Board of Aldermen and the neighborhood. Accordingly,

¹ In January 2008, Congregation Shaarei Tefillah applied to the City's Director of Planning and Development for administrative site plan approval pursuant to Section 30-5(a)(2) of the City's Zoning Ordinance. The Director requested that the Congregation apply for a special permit. In the past year, the Congregation has revised its plans significantly, in part in response to input from the neighborhood and the Planning Department.

Congregation Shaarei Tefillah submits this application in the hope that it will promote meaningful dialogue and a better project but with a full reservation of rights to argue before any administrative body or court of law that is exempt from the special permit process under both M.G.L. c. 40A, §3 and the Religious Land Use and Institutionalized Persons Act.

Background

The property at 35 Morseland Avenue, Newton has been used as a synagogue since the spring of 1970. That year, the Orthodox Jewish congregation known as Independent Chevra Shaas of Dorchester-Mattapan Inc. relocated to Morseland Avenue under the leadership of Rabbi Mordecai Savitzky. Rabbi Savitzky conducted religious services on the Sabbath and holidays in the basement of the 35 Morseland Avenue property while utilizing the first floor of the property as his family's personal residence and for ancillary activities of the congregation. Although attendance at the regular weekly services generally ranged between 10 and 18 people, on occasion, attendance exceeded 200 for bar mitzvah celebrations or holidays. The basement was also used for weekly classes for which attendance ranged between 20 and 30 individuals.

In 1987, Congregation Shaarei Tefillah submitted an application pursuant to former Section 30-5(c) of the City's zoning ordinance for site plan approval relating to construction of a one story addition with full basement to the existing structure at 35 Morseland Avenue. The Board of Alderman granted the site plan approval on July 13, 1987 with a number of conditions. One of the conditions imposed in the 1987 site plan review was the condition "that here shall never be more than 166 persons utilizing the

facilities at this site at any one time.” In the more than twenty years since the special permit was granted, the congregation has grown and at present there are approximately 200 member units (a member unit ranges from an individual to a multiple person family). Although not all members attend worship regularly, Saturday morning worship services are routinely attended by more than 200 people on average.

At present, the congregation is a vibrant community of approximately 200 member units. As Congregation Shaarei Tefillah is an orthodox community, driving on the Sabbath and most other religious holidays is prohibited and most of the members live within walking distance, between a half mile and one mile radius of the synagogue.

The congregation has outgrown its existing space, which has been less than adequate for over ten years. There is no room for members to congregate and converse after worship services, no suitable Kiddush or reception area and inadequate and poorly designed space for youth activities. As a result, members and youth have tended to congregate outside the building on the weekends which has not been a positive experience for either them or the synagogue's neighbors. The addition is intended to provide worship and meeting space for the congregation's existing members in order that the congregation's needs may be served inside the building.² In addition to the construction of the addition, the congregation hopes to make modest changes to the existing building that will improve its appearance.

² The congregation has no plans to expand beyond its existing membership and does not “recruit” members. Membership increases (or decreases) as people move into the neighborhood, move away, have children or move into retirement homes and there has been some transfer of membership between Congregation Shaarei Tefillah and Congregation Beth El, its orthodox synagogue neighbor. Statistics suggest that there are few orthodox synagogues that exceed 250 members, both because the prohibition on driving dictates that members of the synagogue live within walking distance and the relatively limited number who choose the orthodox tradition.

Parking

At present, the site contains nine parking spaces. The proposal adds one parking space, for a total of ten parking spaces. A significant change in the site design will allow a one way driveway that will wrap the building on three sides and will eliminate the backing up by cars or delivery vehicles onto Morseland Avenue.

Although the ten parking spaces is far below the number required under the City's ordinance, members of the congregation walk to the vast majority of services held at the synagogue. A list of the weekly services with the estimated attendance is appended at Tab A. On the few occasions each year when services at which members may drive are held at Congregation Shaarei Tefillah at approximately the same time as similar services are held at Beth El, (e.g., Purim) the congregation has hired a police officer to ensure traffic and pedestrian safety. In connection with the application for administrative site plan review approximately a year ago, the congregation conducted a parking analysis (appended at Tab B). Because it is difficult if not impossible to determine other cars parked at any given time are attending services at Congregation Shaarei Tefillah, Congregation Beth El or merely utilizing on street parking to visit residents on Morseland Avenue and/or in connection with events (and/or football games) at Boston College, the results were not conclusive except to establish that the existing parking spaces at Congregation Shaarei Tefillah are seldom completely utilized.

There is no location readily convenient to Congregation Shaarei Tefillah that can be identified as available at the times when the congregation might need overflow

parking. Efforts to approach Boston College in the past have been unsuccessful although the congregation has recently written to the college to again request that the college consider permitting the synagogue to utilize parking at the law school on an occasional basis.

It is important to note that the proposal will not increase the demand for parking as the addition will accommodate the congregation's present needs. The proposal will, in fact, lessen traffic congestion by providing a circular driveway which will better enable elderly and handicapped members and guests to be dropped off for services without causing traffic congestion on Morseland Avenue. In addition, the location of the loading dock at the rear of the building significantly reduces the backup alarm noise and keep trucks away from the street scape and screened at the rear of the building.

Since discussions with the neighborhood began a couple of years ago, the congregation has made significant efforts to encourage its members to walk to services whenever possible and on those few occasions when they drive to be respectful and considerate of residential neighbors on Morseland Avenue and surrounding streets. Weekly reminders urge members not to park too close to driveways, not to turn around in private driveways, etc. As a result, complaints concerning on-street parking activity have decreased.

Outreach to Neighborhood

In late fall of 2007 and in early 2008, Congregation Shaarei Tefillah hosted several neighborhood meetings to review its then existing plans. During that process, input was obtained from members of the neighborhood concerning issues related to

building design, the site plan and site circulation. In the summer and fall of 2008, Congregation Shaarei Tefillah substantially revised its plans. The building committee of the synagogue invited the neighborhood to attend two meetings, one held on March 4, 2009 and a second on April 1, 2009 to present its new plans and respond to neighborhood questions and concerns. After the initial meeting on March 4, 2009, aspects of the plan were modified somewhat in response to suggestions from the neighborhood.

It was clear at both meetings that among the principal concerns of the neighborhood were availability of on-street parking and events at the synagogue that would generate traffic and noise. As noted above, because Congregation Shaarei Tefillah is an orthodox synagogue, its members are prohibited from driving on the Sabbath. Driving is permitted on certain holidays and the prohibition does not extend to guests of members who may be attending a bar or bat mitzvah service at the synagogue. By way of information, there were an average of twelve bar or bat mitzvah services held per year at the synagogue in the last five years (eight in 2003; eleven in 2004; seven in 2005; fourteen in 2006; eleven in 2007 and eleven in 2008).

Approximately two-thirds of those celebrating their bar or bat mitzvah at the synagogue hold a Kiddush reception immediately following the service which means that although non member, non-orthodox relatives and guests may drive to the service, members are prohibited from doing so. Approximately one-quarter of those holding bar or bat mitzvah services rented a tent for the party or celebration afterwards and approximately

one-third of those whose services were held at the synagogue held a meal or party at another location.

Members of the congregation are committed to making reasonable efforts to ensure that the synagogue's neighbors are not unduly inconvenienced by the operation of the synagogue. Conversations between representatives of the synagogue and representatives of the neighborhood are continuing in an effort to reach agreement on reasonable conditions that might be imposed on a permit issued. The congregation endorses the efforts of Alderman Linsky to establish a liaison committee that will include representatives of the three neighborhood synagogues as well as area residents to encourage dialogue and communication between the institutional and residential neighbors. The congregation is cognizant that the construction process will require particular attention in this regard and will submit an outline of a construction management plan prior to the public hearing. It is anticipated that details of the plan will be formulated after input from the planning department, land use committee and neighborhood.

Criteria for Site Plan Approval

The proposal meets the requirements of the applicable provisions of Section 30-23 of the Ordinance for site plan approval and Sections 30-24(d) and 30-21(b) for the granting of a special permit. Applicant submits that the new design, which will accommodate socializing by the congregation inside rather than outside the building and have adequate space for youth and includes a circular driveway that will promote the convenience and safety of vehicular and pedestrian movement within the site to adjacent

streets, supports a finding that the proposed alteration and addition “shall not be substantially more detrimental than the existing non-conforming use to the neighborhood” pursuant to Section 30-21(b) of the Ordinance. In addition, the proposed site plan promotes convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, will regulate surface water drainage in accordance with applicable state regulations, provides for off street loading and unloading of vehicles incidental to the servicing of the building, screens parking areas and structures on the site and adjoining premises by plantings and a fence, and avoids topographical changes pursuant to Section 30-23 (site plan approval) and poses no nuisance or serious hazard to vehicles or pedestrians and provides appropriate access for the type and number of vehicles involved (Section 30-21(d)).

Although as a religious institution the synagogue is allowed as a matter of right in this residential neighborhood, applicant respectfully suggests that the site is an appropriate location for such use and that the use will not adversely affect the neighborhood. As noted above, the applicant is engaged in an ongoing dialogue with members of the neighborhood concerning issues of concern to both the synagogue and neighbors. Religious and educational institutions and uses are a part of the fabric of Newton neighborhoods and contribute significantly to the Newton community.

Although any institutional or park use in a neighborhood may occasionally generate tension, applicant believes that ongoing dialogue conducted in an atmosphere of mutual respect and consideration for the property rights of others is the best way to achieve neighborhood harmony and is committed to participating in that ongoing dialogue.

Congregation Shaarei Tefillah
Regularly Scheduled Worship Services and Holidays

Non-Holiday Regularly Scheduled Worship Services:

Sunday

- Morning service: 8:00 AM, 20 people
- Morning service: 8:30 AM: service, 20 people
- 9:00 AM, Rabbi's class, 10 people
- Evening service: sundown, 15 people
- Class: one hour before sundown (4 people)

Monday and Thursday

- Morning service: 6:30 AM: service, 20 people
- 7: 15 AM, class, 4 people
- Evening service: sundown, 15 people
- Late evening service: 8:00 PM, 10 people (winter only)
- Class: 7:15 PM (4 people)

Tuesday and Wednesday

- Morning service: 6:40 AM: service, 20 people
- 7: 15 AM, class, 4 people
- Evening service: sundown, 15 people
- Late evening service: 8:00 PM, 10 people (winter only)
- Class: 7:15 PM (4 people)

Friday

- Morning service: 6:40 AM: service, 20 people
- 7: 15 AM, class, 4 people
- Evening service: sundown, 30 people (6 cars parked in lot, none on street, no one drives home)
- Family dinners, 20-125 people, averaging twice per month
- Teen Shabbaton, 40 people, once per year

Saturday

- Morning service: 8:00 AM: service, 75 people (no cars)
- Morning service: 8:00 AM: service, 200 people (no cars)
- Evening service: sundown, 25 people (cars parked in lot drive home)

Holiday Services and Observances (Days of the Week varies):

Rosh Hashanah (2 days)

- Evening before: sundown, 150 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, (250 people upstairs, 150 people downstairs)
- Evening service: sundown, 100 people

Yom Kippur (one twenty-four hour period, September or October)

- Evening before: sundown, 150 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:30 AM, (250 people upstairs, 150 people downstairs)
- Evening service: sundown, 100 people

Sukkot (September, October) (first 2 days)

- Evening before: sundown, 100 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, 75 people (no cars)
- Morning service: 9:00 AM, 75 people (no cars)
- Evening service: sundown, 50 people

Sukkot (last 2 days)

- Evening before: sundown, 100 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, 75 people (no cars)
- Morning service: 9:00 AM, 75 people (no cars)
- Evening service: sundown, 50 people

Purim

- Evening before: sundown, 250 people (cars parked in on street)

Passover (March or April) (first 2 days)

- Evening before: sundown, 100 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, 75 people (no cars)
- Morning service: 9:00 AM, 75 people (no cars)
- Evening service: sundown, 50 people

Passover (last 2 days)

- Evening before: sundown, 100 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, 75 people (no cars)
- Morning service: 9:00 AM, 75 people (no cars)
- Evening service: sundown, 50 people

Shavuot (2 days)

- Evening before: sundown, 100 people (cars parked in lot, none on street, no one drives home)
- Morning service: 8:00 AM, 75 people (no cars)
- Morning service: 9:00 AM, 75 people (no cars)
- Evening service: sundown, 50 people

Other meetings and events at the Synagogue:

- Classes, day or evening, 10-25 people, various times, averaging once a week
- Committee meetings, 4-20 people, evenings, averaging once a week
- Congregational meetings, 50-75 people, several evenings per year
- Community events (e.g. Yom HaShoah), 50-100 people, 3-4 evenings per year

ATTACHMENT E

Meeting Notes for Neighborhood Meeting on May 7, 2009

Thank you all for a thoughtful and productive meeting last night. On behalf of the synagogue, I extend particular thanks to Mark, Naomi and Ellie and Aldermen Linsky and Albright for their attendance and thoughtful comments. Thank you also to Ken who although unable to make the meeting contributed considerably to the discussion by preparing the outline of issues in advance. I think we made good progress last night and we look forward to another meeting in the next couple of weeks to continue our discussion. This memo summarizes both the items discussed last night and some of the agreements reached.

General and Landscaping

The discussion began with review of the special permit process by Alderman Linsky and me. Following that (and prompted by the fact that the public notice to abutters included a reference to lighting and landscaping) there was a discussion of landscaping. The synagogue understands and anticipates developing a full landscape plan prior to construction. We will attempt to provide additional detail on this prior to the public hearing. We recognize that what has been done so far is preliminary and that our neighbors wish to see an attractive and well maintained site. There was a request that there be an evergreen buffer along the north and west boundaries and a specific species, tuhya green giant was mentioned. I checked our site plan this morning (and I apologize for not having a copy of it with me last night) and it appears we have only between 1.8' (at the street) and 3.6' (just before the dumpster) between the driveway and property boundary on the north side. This may preclude a fully planted evergreen buffer, particularly closer to the street, but I think some creative things can be done. There are also several existing trees along the west and northwest boundary we had hoped to preserve to the extent possible. I will pass on all landscaping suggestions, including Naomi's email of this morning (copy attached) to our architect for review. I would hope to have additional information on this at our next meeting.

Liaison Committee

At the outset, everyone agreed that good communication among the neighborhood, the synagogue and, ultimately, the other synagogues in the neighborhood was critical to maintaining good neighborhood relations. Congregation Shaarei Tefillah supports and would welcome a condition in its permit requiring it to participate in a liaison committee. Although Shaarei Tefillah cannot compel attendance by representatives of other synagogues, we would certainly be willing to take the lead on inviting and encouraging that participation. Initially, we recognize the need for regularly scheduled meetings during the construction period. It was also agreed that aldermanic participation and the liaison committee would be helpful. We had understood that Alderman Linsky had volunteered to serve on that committee. We agreed to defer a discussion of construction mitigation for a later meeting.

Traffic and parking

We had considerable discussion on issues of traffic and parking and agreed that Congregation Shaarei Tefillah would continue to educate and remind its congregation to comply with city parking restrictions as well as to observe courtesies when driving in the neighborhood, e.g., no turning around in driveways, parking too close to driveways, making u-turns in the street, parking on the wrong side of the street, parking facing the wrong direction. To the extent that the Rabbi and synagogue personnel observe persons who disregard these admonitions, the Rabbi will speak to them. In addition, it was suggested that for events expected to generate a large number of people who drive to the synagogue and require the assistance of a traffic officer, that the traffic officer be provided with formal written guidelines. In addition, the synagogue is willing to agree to support the neighborhood in its requests for enforcement of existing traffic and parking regulations.

There was a suggestion made that synagogue members who drive to services and other events be encouraged to approach the synagogue from Mill Street, drive south on Morseland Avenue, enter the synagogue, then exit making a right hand turn onto Morseland Avenue, effectively making Morseland Avenue one way south for synagogue traffic. Although the synagogue is willing to encourage its members to do so (recognizing that it has no way of enforcing the request) I continue to question whether this proposal makes sense and would not possibly create additional problems. I received this morning communication from the Planning Department indicating that the preferred directional flow for traffic in the driveway was in on the south side and out on the north side. Obviously, this traffic flow pattern would present a problem if the one way proposal outlined above were adopted for any large event where people would be driving. I have forwarded the question relative to the one way traffic pattern to the Planning Department to seek their input.

Social Events

Concern was expressed that now that the synagogue will have a larger and more attractive Kiddish Room space there would be rentals to non-members and social groups for parties and other social events. Although the synagogue feels that even the new Kiddish space will not necessarily be conducive to this, the synagogue is willing to agree to a condition on its permit that there be no rentals to non-members for parties, weddings, bar and bat mitzvahs and other social events. In this regard, someone also asked whether the synagogue would be willing to agree that there will be no outside tents erected for social events. The new plan provides very little space for this. The synagogue is willing to have a condition on its permit that there will be no outdoor tents erected for social events with the caveat that religious services or temporary structures of religious significance will be conducted outside once or twice a year, e.g. Sukkot. The synagogue has also previously agreed that all parties and social events such as bar and bat mitzvahs would end at 11:00p.m. on weekdays (Monday – Thursday) and midnight on weekends (Friday – Sunday). Celebrations/parties would be rare on the Sabbath but there may be the occasional meal held after a service on that day although there would be no amplified music.

With respect to other traffic and parking items on Ken's list, although they were not discussed last night, the synagogue would be willing to agree to a traffic detail for major events as this is its existing practice. It would also agree to have catering and delivery trucks park only on site (our plan provides for a loading dock in the rear of the building). We are willing to agree that the Rabbi and other synagogue staff would park on site rather than on the street (this is the current practice). We would be willing to coordinate times of deliveries to the synagogue.

With respect to the issues related to the dumpster, the synagogue will agree to a schedule of emptying the dumpster so that it will not overflow and will agree that it would not be emptied before 7:00a.m or after 5:00p.m. In addition, as shown on our proposed site plan, the dumpster will be enclosed. Finally, we all agreed that catering staff would be instructed not to smoke outside the synagogue or loiter and smoke in the street (it may make sense to provide one small area in the back of the building where smoking is permitted; we can discuss this).

Restriction on school

The synagogue has no plans to open a day school, daycare center, nursery school or other formalized educational school on site and would agree to this condition in its permit (the condition already exists in the 1987 permit), provided it is understood that such a condition would not restrict educational programs conducted by the Rabbi and other synagogue members for members of the congregation and occasionally members of the community. At the present time, classes are held once or twice a week for members of the synagogue. Three or four times a year the synagogue hosts a guest lecturer on a topic of interest to synagogue members and the community in general. Prohibition against schools would not prohibit such activities continuing.

Noise/operational windows

One neighbor was particularly concerned about the fact that the sanctuary windows on the north side of the building will be operable and will be opened on occasion. It was felt that this was likely to be only in the transitional spring and fall seasons. The congregation feels strongly that the windows should be operable; one neighbor feels strongly that they should not be operable. The neighbor closest to the existing sanctuary (to the south) could not recall that he had ever heard noise or voices from inside the building during regular worship services. As an orthodox synagogue, Shaarei Tefillah does not utilize instruments or amplification. There was no agreement reached on this point and it was held for future discussion.

To sum up, Shaarei Tefillah will agree to the following conditions as a result of last night's meeting:

- A condition that the synagogue participate in a neighborhood liaison committee and post or publish a calendar of synagogue events and services in a manner accessible to the members of the neighborhood
- A condition that there be no rentals to non-members for parties, weddings, bar and bat mitzvahs and other social events
- A condition that there will be no outdoor tents erected for social events with the caveat that religious services or temporary structures of religious significance may be conducted outside once or twice a year, e.g., Sukkot
- All parties and social events such as bar and bat mitzvah celebrations will end at 11:00p.m. on weekdays (Monday – Thursday) and midnight on weekends (Friday – Sunday)
- The synagogue will regularly communicate to its members concerning the impact of parking and driving on the neighborhood and urge compliance with all posted traffic and parking regulations. The synagogue will cooperate in urging the city to enforce these regulations.
- A traffic detail for major events at which people are expected to drive. This is its existing practice. (We need to agree on defining “major event” or some other appropriate wording).
- Catering and delivery trucks to park only on site (our new plan provides for a loading dock in the rear of the building).
- The Rabbi and other synagogue staff will park on site rather than on the street (this is the current practice).
- Coordinate times of deliveries to the synagogue.
- Schedule the emptying of the dumpster so that it will not overflow. Dumpster will not be emptied before 7:00a.m or after 5:00p.m.
- All catering staff will be instructed not to smoke outside the synagogue or loiter and smoke in the street

Attached to this email is a copy of last night’s attendance list, an email from Naomi relative to landscaping suggestions received this morning and a memo on proposed good neighbor guidelines for hazard control during demolition/construction in residential areas prepared by Ellie in connection with Beth El’s proposed construction. This should be considered in connection with the development of a construction management plan and should be an agenda item at the meeting at which we discuss construction.

Again, thank you all for the good meeting last night. Shabbat Shalom and have a wonderful weekend and Mother's Day!

Zoning Review Memorandum

Dt: April 8, 2009

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Chief Planner

Cc: Michael Kruse, Director, Department of Planning and Development
Diane C. Tillotson, representing Congregation Shaarei Tefillah
Ouida Young, Associate City Solicitor

RE: Request to construct an 8,000 sq. ft. addition to an existing synagogue

Applicant: Congregation Shaarei Tefillah

Site: 29, 31, & 35 Morseland Avenue	SBL: Section 13, Block 30, Lots 11 & 11A
Zoning: SR-2	Lot Area: 31,288 sq. ft.
Current use: Synagogue and adjacent vacant lot	Proposed use: Synagogue with 8,000 sq. ft. addition

Background:

The subject property consists of two lots together totaling 31,288 square feet. The property located at 35 Morseland Avenue is currently improved with a synagogue for Congregation Shaarei Tefillah. The property at 29-31 Morseland Avenue is currently vacant. The site is subject to the conditions of Board Order #47-87 dated July 13, 1987, in which the Board of Aldermen granted Site Plan Approval for the existing synagogue. In 2004, the Congregation bought the adjacent lot at 29-31 Morseland Avenue and subsequently demolished the house on that lot in the fall of 2006, following a one-year demolition delay imposed by the Newton Historical Commission. The Congregation now proposes to construct an addition of approximately 8,000 sq. ft. to the existing synagogue building to expand its use of the site.

Congregation Shaarei Tefillah is an orthodox Jewish synagogue and is a protected organization under the so-called "Dover Amendment." Under Chapter 40A, Section 3 of the Massachusetts General Laws, no local zoning ordinance can regulate or restrict the use of land or structures for religious purposes on land owned by a religious sect or denomination except that such land or structures may be subject to reasonable regulations including for parking requirements. The proposed site plan provides only ten parking spaces – far fewer than are required in the Newton Zoning Ordinance for the proposed uses. The City has requested that the Congregation submit to the special permit process primarily to address this issue.

Administrative determinations:

1. The subject site is located in an SR-2 zone. Section 30-5(a)(2) of the Newton Zoning Ordinance allows religious institutions in any zoning district in accordance with the Dover Amendment. In this case, instead of proceeding with an Administrative Site Plan Approval as described in this section, the Congregation will apply for a special permit from the Board of Aldermen for many of the nonconformities in their site plan. The following review is based on the materials and plans received to date referenced under Plans and Materials Reviewed, below.

Plans and materials reviewed:

- City of Newton Board of Aldermen Board Order #47-87, dated July 13, 1987
- City of Newton memorandum to Mayor Theodore D. Mann, Board of Aldermen and Planning and Development Board from Barry C. Canner, Director of Planning and Development, dated March 10, 1987
- “Congregation Shaarei Tefillah Existing Conditions Plan in Newton, MA,” dated 9/22/2007, signed and stamped by Michael A. Pusitizzi, Professional Land Surveyor
- “Development Plan in Newton, MA 29-31 & 35 Morseland Ave.,” dated March 11, 2009, signed and stamped by Kevin J. Quinn, Registered Professional Engineer
- Architectural Plans for Congregation Shaarei Tefillah as follows, all dated 3/4/09 and signed and stamped by Jordan C. O’Connor, Registered Architect
 - “Upper Renovation”
 - “Lower Renovation”
 - “East Elevation”
 - “North Elevation”
 - “West Elevation”

2. Currently the site consists of two distinct lots, which the applicant intends to merge in order to construct an approximately 8,000 sq. ft. addition to house a new sanctuary with expanded seating capacity, a new kitchen, storage facilities, restrooms and lobby. The new structure is subject to the dimensional requirements in Section 30-15, Table 2 (Dimensional Regulations for Religious and Non-Profit Educational Uses) for a Single Use Institution in the SR-2 zone.

3. The following table sets forth the applicable dimensional controls for this project.

SR-2 Single Use Institution	Required	Existing Lot A (vacant parcel)	Existing Lot B (synagogue parcel)	Proposed (merged parcel)
Lot Area	15,000 sq. ft.	16,215 sq. ft.*	15,056 sq. ft.	31,271 sq. ft.
Setbacks <ul style="list-style-type: none">• Front• Side• Rear	30 ft. 15 ft. 15 ft.	N/A N/A N/A	25.6 ft. 26.7 ft. 47.6 ft.	20.8 ft. 14 ft. 33.2 ft.
Floor Area Ratio	.33	N/A	.59	.53
Building Height	36 ft.	N/A	20.2 ft.	32 ft.
Maximum Number of Stories	3	N/A	1	1
Maximum Building Lot Cov.	30%	0%	30%	40.4%
Minimum Open Space	50%	72.17%	30.13%	18.8%

* taken from survey information provided by the applicant, City’s Assessor’s Database figure varies slightly

4. The existing synagogue is legally nonconforming with respect to front setback, FAR and minimum open space. The proposed structure will increase these nonconformities. The proponent must obtain a special permit to expand a non-conforming structure per Sections 30-21(a)(2)(b) and 30-21(b).

5. The existing synagogue is currently in compliance with the maximum lot coverage requirement in Section 30-15, Table 2 and as required per Condition #5 in Board Order #47-87. Under the proposed scenario, the project will have 40.4% lot coverage where the maximum allowed is 30%. The Congregation must seek a variance from the Board of Appeals to exceed this dimensional standard or request a Dover Amendment waiver from the Commissioner of Inspectional Services.

6. The plans submitted with the application for a zoning review memo show a 14 ft. setback on the north side of the new building from the proposed stairs to the property line. Per Section 30-15(e)

stairs may project into the setback. However, this is true only if the stairs are built to the minimum size required by the State Building Code for adequate egress. The subject stairs are wider than the State Code minimum and the applicant has indicated that they will be changed to comply with both the State Building Code and the City's setback requirements. If the Congregation decides that it would rather build the egress as currently depicted on the site plan, a variance from the Board of Appeals or a Dover Amendment waiver from the Commissioner of Inspectional Services would be necessary.

7. During the 1987 Site Plan Review process, the Planning staff memo for Petition #47-87 surmised that the existing building (proposed at the time) required 55 parking spaces for the synagogue with 166 seats proposed and 69 spaces for the function rooms. However, since it was a reasonable assumption that both the synagogue and the function rooms would not be used concurrently, but rather consecutively by the same group of people, it was not necessary to require 124 parking spaces (55+69). Instead, the staff report and the Board Order agreed that the proposed use in 1987 required only 55 spaces. Section 30-21(c)(2)(c) of the Newton Zoning Ordinance in effect in 1987 calculated grandfathered parking spaces slightly differently than the current Ordinance. Under this previous section, 43 spaces were grandfathered for the synagogue. In addition, the number of off-street parking spaces to be provided on-site for the new use was "reduced by up to five (5) parking stalls." The result of this calculation was that seven additional spaces had to be provided (55-43-5=7). The Congregation provided 9 spaces on-site because two spaces already existed (7 additional+2 existing=9).

Since 1987, the use of the site has gradually intensified. The 1987 Board Order limited the number of seats in the sanctuary to 166 (Condition #3). Today there are 300. While strictly speaking this increase can be considered a violation of the Board Order, there are legal questions as to whether a Dover-protected institution can be limited in this way. Nevertheless, for the purposes of calculating parking spaces, the number of grandfathered parking spaces corresponds directly to the number of spaces required in the 1987 Board Order.

8. Per Section 30-19(d) the total number of parking spaces required by the current proposal is 262. (See chart below.) However, the Congregation has stated that the Kiddush room and the offices will not be used at the same time as the sanctuary or other rooms. Assuming joint usage does not take place, 193 spaces would be required for the proposed project. The site plan submitted with this application shows a parking facility with ten spaces. Fifty-five spaces have been grandfathered due to the existing use including nine of the ten provided on-site. Therefore, the applicant must request a special permit for a waiver of 137 parking spaces ($193-55-1=137$) under Section 30-19(m).

Use	Base Parking Requirement	1987		2009	
		Approved Condition	Total Number of Spaces Required	Proposed Condition	Total Number of Spaces Required
Synagogue	1 space per 3 seats	166 seats	55 ¹	405 seats	135
Kiddush Room	1 space per 3 seats	207 seats	69 ²	200 seats	67 ³
Multi-use/youth	1 space per 45 sq. ft.			965 sq. ft.	22
Conference	1 space per 45 sq. ft.			340 sq. ft.	8
Hashkama Minyan Room	1 space per 45 sq. ft.			1,242 sq. ft.	28
Offices	1 space per 250 sq. ft.			425 sq. ft.	2 ³
Totals			124		262
Actual number of spaces required since several rooms are not used concurrently			55 ($124-69=55$)		193 ($262-67-2=193$)

¹ 55.3 actual, rounded down per 1987 Planning Staff memo

² Room not used concurrently with synagogue per 1987 Planning Staff memo

³ Rooms not used concurrently with other uses

9. Section 30-19(h) sets out the applicable parking stall dimensional requirements for parking facilities containing more than five stalls. Section 30-19(h)(1) prohibits any parking stalls within the front or side setback. The handicapped parking stall shown on the site plan is within the front setback. The proponent must obtain a Special Permit under Section 30-19(m) for a waiver of the requirement.
10. Section 30-19(i) describes required landscaping for parking facilities containing more than five stalls. The submitted plans show a fence at the rear of the property to screen the parking lot from the neighbors. Per Section 30-19(i)(1)(a)(ii), a fence can provide the adequate screening, but there shall also be a landscaped strip with a minimum width of three feet between the base of the fence and any abutting property. The plans do not show the required landscaped strip. More information should be provided on this issue in the special permit application or the applicant should apply for a waiver of this provision per Section 30-19(m).
11. Section 30-19(j) details lighting requirements for outdoor parking facilities containing more than five stalls. The proponent has not submitted a lighting plan. One should be prepared to the specifications of this section for the special permit process.

12. See “Zoning Relief Summary” below.

<i>Zoning Relief Summary</i>		
<i>Ordinance</i>		<i>Action Required</i>
	Amendment to existing Board Order	
§30-5(a)(2)	Amend existing Board Order #47-87 to allow for a synagogue with 405 seats (condition #3) and to exceed maximum percentage lot coverage (condition #5).	
	Site	
§30-21(a)(2)(b), §30-21(b)	Expand legal nonconformities with respect to front setback, FAR and minimum open space.	SP per §30-24
§30-15, Table 2	Exceed maximum lot coverage	Variance or Dover waiver
§30-15(e), §30-15, Table 2	Create a new nonconformity with stairs projecting into the north side setback.	Variance of Dover waiver
§30-23	Site plan approval	
	Parking	
§30-19(d)	Waiver of 137 parking spaces required by the Zoning Ordinance	SP per §30-19(m) and §30-24
§30-19(h)(1)	Parking stall in the front setback	SP per §30-19(m) and §30-24
§30-19(i) and (j)	Landscaping and lighting for parking, facilities with five or more stalls	TBD, more information needed

CITY OF NEWTON
ENGINEERING DIVISION

MEMORANDUM

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghlia, Associate City Engineer

Re: Special Permit – Congregation Shaarei Tefillah

Date: May 4, 2009

CC: Lou Taverna, PE City Engineer (via email)
Candice Havens, Chief Planner (via email)
Linda Finucane, Associate City Clerk (via email)
Ben Solomon-Schwartz, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Development Plan
Sheet 1
29 – 31 & 35 Morseland Avenue
Newton, MA
Prepared by: Quinn Engineering Inc.
Dated: March 11, 2009
And
Geotechnical Engineer Report
By: PSI
Dated January 3, 2008*

Drainage:

1. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. The proposed drainage system shall be within (20') of the test pit. The proposed drainage system should be 2' above the seasonal high groundwater elevation. This test must be witnessed by a member of the Engineering Division.
2. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 7-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site.

3. A generic location of a “proposed” underground infiltration system is shown on the plan along the western property line. This is unacceptable. A fully engineered system with calculations and system details, and cross section profiles is needed for evaluation.
4. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and adopted by applicant, incorporated into the deed; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
5. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the applicant.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted to the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.

Water:

1. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a written report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.
2. The water service for the temple shall be updated; the original service connection is 59 years old.

Pavement & Concrete Construction:

1. A detailed cross-section of the proposed drive is needed; it shall specify the various materials and associated thicknesses, and compaction requirements.
2. All concrete work performed within the City right of way shall meet the requirements of the City of Newton Department of Public Standard Construction.

Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer man need to match.
2. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected my result in the delay of issuance of the Utility Connection Permit.
3. Use City of Newton Details which are available on the City's website.
4. All utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) excavatable Type IE, detail is available in the city of Newton Construction Standards Detail Book.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

URBAN DESIGN COMMISSION MEETING NOTES

April 22, 2009

Review of Plans for Expansion of Congregation Shaarei Tefillah

Commissioners: Rich Griffin (Chair), Jim Doolin, Michael Kaufman, Trudy Reilly,

City Staff: Ben Solomon-Schwartz

Synagogue Representative: Roni Pick, member of synagogue building committee

- Ways to soften accessibility
 - Direct ramp up the middle, rather than a combination of stairs and a zig-zag ramp
 - Soften railing with plantings, in particular the fence to the left of the steps, or reduce size of retaining wall
 - Consider hanging plantings from the ramp
- Merging the existing building and the new addition is a challenge
 - The gable over the rabbi's office takes away from the curved main entrance and the curve over the center of the new addition
 - Alternatives include converting the gable to a jerk-in roof or converting the curved entrance feature to a gable
- Roof styling
 - The commission discussed different roof alternatives to the mansard roof proposal in order to meet the goals of adding visual articulation to the long building surfaces and to help the building relate to the neighborhood context
 - The discussion included alternatives inspired by the metal cladding used on the top story of a newly built Harvard graduate dorm on Cowperthwaith Street in Cambridge
 - The commission recommended eliminating the mansard roof and using different materials in that area, including the upper area of the entire north façade
 - Maintaining a shadow line will retain effect of adding some complexity to the form without the cost of an entire additional roof structure
- Windows
 - The south facing upper-story windows are not likely to pose a problem for the neighbors
 - The synagogue users may desire shades over these windows to prevent glare and excess solar heat gain inside
 - The commission inquired about the plans for interior lighting, which are still being determined by the synagogue
 - The synagogue is still determining whether the north-facing windows will be transparent or use some form of translucent glass
- Rear façade
 - The representative of the synagogue explained that the façade was blank because the rear neighbors didn't want any light trespass through windows
 - The commission suggested additional detailing such as a trellis or articulation of window spaces (even without windows)
- Drainage
 - Because the vast majority of the site is covered, the commission recommended considering using concrete pavers to allow more water to permeate the ground

directly rather than entering a detention basin

- Street trees
 - The synagogue should try not to remove any existing street trees and should continue the pattern formed on the rest of Morseland, which may include planting additional trees
- Dumpster location
 - One commissioner inquired whether the dumpster could be located inside the building or modified to be more in the character of the single-family residential neighborhood
- Noise
 - In response to a question about noise, Roni Pick responded that the mechanical equipment will be collected in the center of the roof, will be fenced in with padding in order to reduce the noise disturbance